

# TERMS OF SERVICE AND SUPPLIER AGREEMENT

*Date of Last Revision: January 25, 2024*

## Acceptance of These Terms of Service

Nessle, Inc. (“Nessle,” “we,” “us,” or “our”) provides our services (described below) to you through our website located at [www.nessle.com](http://www.nessle.com) (the “Site”), through our mobile application (“Mobile App”) and related technologies (collectively, such Mobile App and the Site, including any updated or new features, functionality, and technology, the “Service”). All access and use of the Service is subject to the terms and conditions contained in these Terms of Service and Supplier Agreement (as amended from time to time, these “Terms of Service”). By accessing, browsing, or otherwise using the Site, Mobile App, or any other aspect of the Service, you acknowledge that you have read, understood, and agree to be bound by these Terms of Service. If you do not accept the terms and conditions of these Terms of Service, you will not access, browse, or otherwise use the Service. If you are accepting these Terms of Service on behalf of your employer or another entity (which will be deemed to the case if you sign up for a Service using an email address from your employer or such entity), then the “you” under these Terms of Service will be such employer or other entity, and you represent and warrant that (a) you have read and understand these Terms of Service, (b) you have full legal authority to bind your employer or such entity to these Terms of Service and (c) you agree to these Terms of Service on behalf of your employer or such entity.

We reserve the right, at our sole discretion, to change or modify portions of these Terms of Service at any time. If we do this, we will post the changes on this page and will indicate at the top of this page the date these Terms of Service were last revised. You may read a current, effective copy of these Terms of Service by visiting the “Terms of Service” link on the Site [and under the “Legal — Terms of Service” section of our Mobile App]. We will also notify you of any material changes, either through the Service user interface, a pop-up notice, email, or through other reasonable means. Your continued use of the Service after the date any such changes become effective constitutes your acceptance of the new Terms of Service. You should periodically visit this page to review the current Terms of Service so you are aware of any revisions. If you do not agree to abide by these or any future Terms of Service, you will not access, browse, or use (or continue to access, browse, or use) the Service.

***PLEASE READ THESE TERMS OF SERVICE CAREFULLY, AS THEY CONTAIN AN AGREEMENT TO ARBITRATE AND OTHER IMPORTANT INFORMATION REGARDING YOUR LEGAL RIGHTS, REMEDIES, AND OBLIGATIONS. THE AGREEMENT TO ARBITRATE REQUIRES (WITH LIMITED EXCEPTION) THAT YOU SUBMIT CLAIMS YOU HAVE AGAINST US TO BINDING AND FINAL ARBITRATION, AND FURTHER (1) YOU WILL ONLY BE PERMITTED TO PURSUE CLAIMS AGAINST NESSLE ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING, (2) YOU WILL ONLY BE PERMITTED TO SEEK RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ON AN INDIVIDUAL BASIS, AND (3) YOU MAY NOT BE ABLE TO HAVE ANY CLAIMS YOU HAVE AGAINST US RESOLVED BY A JURY OR IN A COURT OF LAW.***

**Privacy.** Nessle is committed to maintaining the privacy of the personal information of all Suppliers. Nessle also protects your privacy, as described in our Privacy Policy (available at [https://assets-global.website-files.com/62b6328770c172ec59ea167d/6539e88ab01b8c534a29ec16\\_Nessle%20-%20Privacy%20Policy%20-%20GP%2010.24.23.docx.pdf](https://assets-global.website-files.com/62b6328770c172ec59ea167d/6539e88ab01b8c534a29ec16_Nessle%20-%20Privacy%20Policy%20-%20GP%2010.24.23.docx.pdf)). These Terms of Service and your use of the Service are subject to that Nessle Privacy Policy, which is incorporated herein by reference.

## Access and Use of the Service

**The Service.** The Service is an online platform that connects parent-support Suppliers (companies, non-medical providers, creators, and organizations with services and/or products designed to support families) with parents and other end users (the “Users”) for support on topics related to pregnancy, postpartum, and parenting.

**Your Registration Obligations:** You may be required to register with Nessle or provide information about yourself (*e.g.*, name and email address) in order to access and use certain features of the Service. If you choose to register for the Service, you agree to provide and maintain true, accurate, current, and complete information about yourself as prompted by the Service’s registration form. Registration data and certain other information about you are governed by our Privacy Policy. If you are under 18 years of age, you are not authorized to use the Service, with or without registering.

**Member Account, Password and Security:** You are responsible for maintaining the confidentiality of your password and account details, if any, and are fully responsible for any and all activities that occur under your password or account. You agree to (a) immediately notify Nessle of any unauthorized use of your password or account or any other breach of security, and (b) ensure that you exit from your account at the end of each session when accessing the Service. Nessle will not be liable for any loss or damage arising from your failure to comply with this paragraph.

**Modifications to Service:** Nessle reserves the right to modify or discontinue, temporarily or permanently, the Service (or any part thereof) with or without notice. You agree that Nessle will not be liable to you or to any third party for any modification, suspension or discontinuance of the Service.

**General Practices Regarding Use and Storage:** You acknowledge that Nessle may establish general practices and limits concerning use of the Service, including the maximum period of time that data or other content will be retained by the Service and the maximum storage space that will be allotted on Nessle’s or its third-party service providers’ servers on your behalf. You agree that Nessle has no responsibility or liability for the deletion or failure to store any data or other content maintained or uploaded by the Service. You acknowledge that Nessle reserves the right to terminate accounts that are inactive for an extended period of time. You further acknowledge that Nessle reserves the right to change these general practices and limits at any time, in its sole discretion, with or without notice.

### **Important Reminders About the Service**

NESSLE IS NOT AUTHORIZED TO PROVIDE SERVICES REQUIRING PROFESSIONAL LICENSURE AND DOES NOT OFFER CLINICAL HEALTHCARE SERVICES. THE SERVICE IS FOR PURPOSES OF ASSISTING SUPPLIERS TO CONNECT WITH USERS. ANY NESSLE CONTENT OR OTHER INFORMATION ON THE SERVICE IS FOR INFORMATIONAL OR COMMUNICATIVE PURPOSES ONLY AND DOES NOT CONSTITUTE MEDICAL OR OTHER HEALTHCARE ADVICE. DO NOT USE THE SERVICE TO OFFER, OR PROVIDE HEALTHCARE, COUNSELING, OR MENTAL HEALTH SERVICES OR ADVICE; USE THE SERVICE ONLY TO CONNECT WITH USERS. THE SERVICE AND THE NESSLE CONTENT IS NOT INTENDED TO REPLACE OR SUBSTITUTE PROFESSIONAL MEDICAL ADVICE OR DIAGNOSTIC, TREATMENT, OR COUNSELING SERVICES. YOUR USE OF THE SERVICE, AND YOUR PROVISION OF SERVICES TO USERS WITH WHOM APPOINTMENTS ARE SCHEDULED ARE SOLELY YOUR RESPONSIBILITY AND PROVIDED AT YOUR OWN RISK.

THE USE OF THE SERVICE DOES NOT CREATE A DOCTOR-PATIENT RELATIONSHIP OR OTHER PRIVILEGED RELATIONSHIP BETWEEN YOU AND ANY USER. NESSLE DOES NOT REFER, RECOMMEND OR ENDORSE YOU OR ANY PARTICULAR SUPPLIER, TEST, PROCEDURE, OPINION, OR OTHER INFORMATION THAT MAY APPEAR THROUGH THE SERVICE AND YOU MAY NOT REPRESENT OTHERWISE TO USERS. IF YOU RELY ON ANY NESSLE CONTENT, YOU DO SO SOLELY AT YOUR OWN RISK.

NESSLE DOES NOT VERIFY THE VALIDITY OF YOUR CREDENTIALS AND YOU ARE RESPONSIBLE FOR HAVING THE CREDENTIALS REQUIRED TO PROVIDE YOUR SERVICES. NESSLE DOES NOT ENDORSE SUPPLIERS AND ENCOURAGES USERS TO INDEPENDENTLY VERIFY SUPPLIER'S CREDENTIALS.

**DO NOT USE THE SERVICE TO PROVIDE EMERGENCY MEDICAL OR OTHER HEALTHCARE SERVICES.**

**Conditions of Access and Use**

**Eligibility for Enrollment as a Supplier.** To use the Service, you must comply with the following requirements:

- (a) Be 18 years of age or older and self-identify as (a) a qualified expert and who has been through either formal or on-the-job training a topic related to pregnancy, postpartum, or parenting, or (b) an authorized representative of a brand, organization, proprietorship, or company that provides services and/or products in support of families.
- (b) To receive client referrals through the Service, you must also satisfactorily complete the Nessle onboarding process.
- (c) When the onboarding process is complete, your listing page will become available on the website, once it is activated by Nessle.
- (d) If you are in a field requiring professional certifications or educational degrees, you must provide Nessle with evidence of such certifications, training details or degrees satisfactory to Nessle, in its sole discretion.
- (e) You will not be listed in the Service until Nessle has confirmed eligibility for listing. Nessle will notify you by email upon approval or rejection of your enrollment. If Nessle rejects your enrollment, these Terms of Service will terminate without any liability on the part of Nessle.
- (f) You must not have been previously disqualified by Nessle to act as a Supplier for any reason.
- (g) You agree to comply with applicable laws regarding: (1) licensure and certification requirements; (2) professional conduct standards; and (3) requirements and limitations applicable to your use of credentials and description of certifications (e.g., CLC certification, CD(DONA), and PCD(DONA)).
- (h) You will not engage in fraud or deceptive practices.

**Your Supplier Fees and Payments.** To the extent the Service or any portion thereof is made available for any fee, you may be required to provide payment information regarding your credit card or other payment instrument. You represent and warrant to Nessle that such information is true and that you are authorized to use the payment instrument. You will promptly update your account information with Nessle or the Payment Processor (as defined below), as applicable, of any changes (for example, a change in your billing address or credit card expiration date) that may occur. All fees and charges will be clearly listed and must be paid at the time you make a purchase through the Service. You agree to pay Nessle the amount that is specified in the payment plan in accordance with the terms of such plan and these Terms of Service. The Supplier may, and reserves the right to, change any prices for the Suppliers' service. You will be responsible for all taxes associated with the Service, other than taxes based on Nessle's net income. All

payments are made in U.S. dollars. Sales made in currencies other than U.S. dollars will be converted to U.S. dollars based on the final exchange rate of the day each purchase was made, using the daily rates provided by [openexchangerates.org](https://openexchangerates.org).

**Payment Processing:** Notwithstanding any amounts owed to Nessle hereunder, NESSLE DOES NOT PROCESS PAYMENTS FOR THE SERVICE. To facilitate payment for the Service via bank account, credit card, or debit card, we use Stripe, Inc. and its affiliates (“Payment Processor”), a third-party payment processor. These payment processing services are provided by Stripe and are subject to the Stripe terms and conditions and other policies available at <https://stripe.com/legal> and Stripe’s Global Privacy Policy available at: <https://stripe.com/privacy> (collectively, the “Stripe Agreements”). By agreeing to these Terms of Service, users that use the payment functions of the Service also agree to be bound by the Stripe Agreements for the payment function the user is using, as the same may be modified by Stripe from time to time. Please contact Stripe for more information. Nessle assumes no liability or responsibility for any payments you make through the Service.

**Fee Disputes; Refunds:** If you dispute any charges you must let Nessle know within thirty (30) days after the date that Nessle charges you, or within such longer period of time as may be required under applicable law. Suppliers may request refunds within 30 days for sessions if they make a specific complaint to Nessle by email to [hello@nessle.com](mailto:hello@nessle.com).

**Missed Sessions, Ratings, and Reliability:** Sessions missed or cancelled before the arranged time will be refunded at the discretion of the Supplier. For disputes, email us at [hello@nessle.com](mailto:hello@nessle.com). Nessle reserves the right to disable the access of any Supplier whose reliability and ratings are deemed insufficient, at Nessle’s sole discretion.

**Supplier Conduct.** You are solely responsible for all code, video, images, information, data, text, software, music, sound, photographs, graphics, messages, and other materials (“content”) that you make available to Nessle or Users, including by uploading, posting, publishing, or displaying (hereinafter, “upload(ing)”) via the Service or by emailing or otherwise making available to Users (collectively, “Supplier Content”). The following are examples of the kinds of content and/or uses that are illegal or prohibited by Nessle. Nessle reserves the right to investigate and take appropriate legal action against anyone who, in Nessle’s sole discretion, violates this provision, including removing the offending content from the Service, suspending or terminating the account of such violators, and reporting the violator to law enforcement authorities. You agree to not use the Service to:

- a) email or otherwise upload any content that (i) infringes any intellectual property or other proprietary rights of any party; (ii) you do not have a right to upload under any law or under contractual or fiduciary relationships; (iii) contains software viruses or any other computer code, files or programs designed to interrupt, destroy, or limit the functionality of any computer software or hardware or telecommunications equipment; (iv) poses or creates a privacy or security risk to any person; (v) constitutes unsolicited or unauthorized advertising, promotional materials, commercial activities and/or sales, “junk mail,” “spam,” “chain letters,” “pyramid schemes,” “contests,” “sweepstakes,” or any other form of solicitation; (vi) is unlawful, harmful, threatening, abusive, harassing, tortious, excessively violent, defamatory, vulgar, obscene, pornographic, libelous, invasive of another’s privacy, hateful, discriminatory, or otherwise objectionable; or (vii) in the sole judgment of Nessle, is objectionable or which restricts or inhibits any other person from using or enjoying the Service, or which may expose Nessle or its users, including Users, to any harm or liability of any type;
- b) interfere with or disrupt the Service or servers or networks connected to the Service, or disobey any requirements, procedures, policies, or regulations of networks connected to the Service;

- c) violate any applicable local, state, national, or international law, or any regulations having the force of law;
- d) impersonate any person or entity, or falsely state or otherwise misrepresent your affiliation with a person or entity;
- e) solicit personal information from anyone under the age of 18;
- f) harvest or collect email addresses or other contact information of other users from the Service by electronic or other means for the purposes of sending unsolicited emails or other unsolicited communications;
- g) advertise or offer to sell or buy any goods or services for any business purpose that is not specifically authorized;
- h) further or promote any criminal activity or enterprise or provide instructional information about illegal activities;
- i) obtain or attempt to access or otherwise obtain any content or information through any means not intentionally made available or provided for through the Service;
- j) circumvent, remove, alter, deactivate, degrade, or thwart any of the content protections in or geographic restrictions on any content (including Nettle Content (as defined below)) available on or through the Service, including through the use of virtual private networks; or
- k) engage in or use any data mining, robots, scraping, or similar data gathering or extraction methods.

If you are blocked by Nettle from accessing the Service (including by blocking your IP address), you agree not to implement any measures to circumvent such blocking (e.g., by masking your IP address or using a proxy IP address or virtual private network).

**Control of the Service.** Nettle reserves the right to remove any Supplier Content and to change any content on the Service it believes is necessary to remove or change in the course of its administration of the Service, in its sole discretion, including but not limited to any Supplier Content that violates these Terms of Service.

**Adherence to Applicable Law.** These Terms of Service and the Service are subject to applicable law. You may not use the Service to the extent it or any of its aspects are prohibited by applicable federal, state, or local law or regulations. And any such use is void.

**Additional Obligations Concerning Use of the Service.** You will:

- (a) Adhere to the provisions of these Terms of Service and perform your role as a Supplier as an independent contractor and will not be considered and agent or employee of Nettle. You are solely responsible for: (i) the safety and supervision of your employees and contractors; (ii) the payment of wages, salaries, and other amounts due to your employees or contractors in connection with your operations; and (iii) all reports and obligations respecting your employees and contractors relating to Social Security, Federal, State and local personal income tax and withholding, payroll taxes, unemployment and disability insurance, worker's compensation, and all other governmental or agency requirements and similar matters. Nothing contained in these Terms of Service may be construed to constitute the parties as partners within the meaning of the law of partnership, joint venturers, co-owners, or otherwise as participants in a joint or common undertaking, or allow either party to create or assume any obligation on behalf of the other party for any purpose whatsoever.
- (b) Be responsible for the performance of the services to a User subject to the Terms of Service, and will receive no assistance, direction, or control from Nettle regarding the service you render to a User. You will have sole discretion and control of your operations and the manner in which you provide services to Suppliers and will be solely responsible for such services.



- (c) Supply, at your sole expense, all equipment, tools, materials, and supplies needed to provide advice or coaching, including but not limited to a phone, computer, or other communications devices needed to conduct sessions with Suppliers.
- (d) Be solely responsible to ensure that your role as a Supplier does not violate the terms of any other agreement to which you are a party.
- (e) Be responsible for your own profits or losses, and you may set hourly rates for providing advice within your sole discretion.

### **Mobile Services and Software**

**Mobile Services:** The Service includes certain services that are available via a mobile device, including (i) the ability to upload content to the Service via a mobile device, (ii) the ability to browse the Service and the Site from a mobile device, and (iii) the ability to access certain features and content through Mobile Apps (collectively, the “Mobile Services”). To the extent you access the Service through a mobile device, your wireless service carrier’s standard charges, data rates, and other fees may apply. In addition, downloading, installing, or using certain Mobile Services may be prohibited or restricted by your carrier, and not all Mobile Services may work with all carriers or devices.

**Telephonic Communications Services:** By using the Service and providing us with your telephone number(s), you are consenting to be contacted by Nessle or its affiliates or partners by telephone (including on a recorded line), automated calling, automated telephone dialing system calling, automated system calling, artificial voice or pre-recorded calling, text message, SMS and/or MMS message, fax, or other telephonic or electronic means for marketing, solicitation, informational or another purposes, even if your telephone number(s) is registered on the National Do Not Call List, a state Do not Call List, or the internal Do Not Call List of Nessle or its affiliates or partners. You may be required to respond to an initial call or message as instructed to complete your registration and confirm enrollment to receive such calls, texts or other telephonic communications. You do not have to consent to receive calls or text messages from Nessle or its affiliates or partners for marketing or solicitation purposes to purchase Nessle’s products or services. In the event you no longer wish to receive such calls, text messages or other telephonic communications, you agree to notify Nessle or its affiliates or partners, as applicable, directly. In the event you change or deactivate your telephone number, you agree to promptly update your Nessle account information to ensure that your messages are not sent to a person that acquires your old telephone number.

There is no additional charge for telephonic communications, but your carrier’s standard message and data rates apply to any calls, text messages, SMS or MMS messages you send or receive. Your carrier may prohibit or restrict certain mobile features and certain mobile features may be incompatible with your carrier or mobile device. We are not liable for any delays in the receipt of, or any failures to receive, any calls, text messages, SMS or MMS messages, as delivery is subject to effective transmission by your mobile carrier and compatibility of your mobile device. Please contact your mobile carrier if you have any questions regarding these issues or your mobile data and messaging plan.

By reply to any text, SMS or MMS message you receive from us, you may text “STOP” to cancel or “HELP” for customer support information. If you choose to cancel text, SMS or MMS messages from us, you agree to receive a final message from us confirming your cancellation.

**Mobile App License:** Subject to these Terms of Service, Nessle hereby grants to you a limited, revocable, non-exclusive, non-transferable, non-sublicensable license to (a) install the Mobile App on one mobile device and (b) use the Mobile App for your own personal use solely to access and use the Service. For clarity, the foregoing is not intended to prohibit you from installing the Mobile App on another device on which you also agreed to these Terms of Service. Each instance of these Terms of Service that you agree to in connection with downloading a Mobile App grants you the aforementioned rights in connection with the installation and use of the Mobile App on one device.

**Ownership; Restrictions:** The technology and software underlying the Service or distributed in connection therewith are the property of Nessle, its affiliates, and its licensors (including the Mobile App,

the “Software”). You agree not to copy, modify, create a derivative work of, reverse engineer, reverse assemble, or otherwise attempt to discover any source code, sell, assign, sublicense, or otherwise transfer any right in the Software. Any rights not expressly granted herein are reserved by Nessle.

**Special Notice for International Use; Export Controls:** Nessle is headquartered in the United States. Whether inside or outside of the United States, you are solely responsible for ensuring compliance with the laws of your specific jurisdiction. Software available in connection with the Service and the transmission of applicable data, if any, is subject to United States export controls. No Software may be downloaded from the Service or otherwise exported or re-exported in violation of U.S. export laws. Downloading, accessing or using the Software or Services is at your sole risk.

**Third-Party Distribution Channels:** Nessle offers Software that may be made available through the Apple App Store, the Google Play Store, or other distribution channels (“Distribution Channels”). If you obtain such Software through a Distribution Channel, you may be subject to additional terms of the Distribution Channel. These Terms of Service are between you and us only, and not with the Distribution Channel. To the extent that you utilize any other third-party products and services in connection with your use of the Service, you agree to comply with all applicable terms of any agreement for such third-party products and services.

**Apple-Enabled Software:** With respect to Mobile Apps that are made available for your use in connection with an Apple-branded product (the “Apple-Enabled Software”), in addition to the other terms and conditions set forth in these Terms of Service, the following terms and conditions apply:

- Nessle and you acknowledge that these Terms of Service are concluded between Nessle and you only, and not with Apple Inc. (“Apple”), and that as between Nessle and Apple, Nessle, not Apple, is solely responsible for the Apple-Enabled Software and the content thereof.
- You may not use the Apple-Enabled Software in any manner that is in violation of or inconsistent with the Usage Rules set forth for Apple-Enabled Software in, or otherwise be in conflict with, the Apple Media Services Terms and Conditions.
- Your license to use the Apple-Enabled Software is limited to a non-transferable license to use the Apple-Enabled Software on an iOS product that you own or control, as permitted by the “Usage Rules” set forth in the Apple Media Services Terms and Conditions, except that such Apple-Enabled Software may be accessed and used by other accounts associated with the purchaser via Apple’s Family Sharing or volume purchasing programs.
- Apple has no obligation whatsoever to provide any maintenance or support services with respect to the Apple-Enabled Software.
- Apple is not responsible for any product warranties, whether express or implied by law. In the event of any failure of the Apple-Enabled Software to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the Apple-Enabled Software, if any, to you; and, to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Apple-Enabled Software, or any other claims, losses, liabilities, damages, costs, or expenses attributable to any failure to conform to any warranty, which will be Nessle’s sole responsibility, to the extent it cannot be disclaimed under applicable law.
- Nessle and you acknowledge that Nessle, not Apple, is responsible for addressing any claims of you or any third party relating to the Apple-Enabled Software or your possession and/or use of that Apple-Enabled Software, including: (a) product liability claims; (b) any claim that the Apple-Enabled Software fails to conform to any applicable legal or regulatory requirement; and (c) claims arising under consumer protection, privacy, or similar legislation.
- In the event of any third-party claim that the Apple-Enabled Software or your possession and use of that Apple-Enabled Software infringes that third party’s intellectual property rights, as between

Nessle and Apple, Nessle, not Apple, will be solely responsible for the investigation, defense, settlement, and discharge of any such intellectual property infringement claim.

- You represent and warrant that (a) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a “terrorist supporting” country; and (b) you are not listed on any U.S. Government list of prohibited or restricted parties.
- If you have any questions, complaints, or claims with respect to the Apple-Enabled Software, they should be directed to Nessle as follows:

hello@nessle.com

804-482-1015

1717 E Cary St.

Richmond, VA 23223

- You must comply with applicable third-party terms of agreement when using the Apple-Enabled Software, e.g., your wireless data service agreement.
- Nessle and you acknowledge and agree that Apple, and Apple’s subsidiaries, are third-party beneficiaries of these Terms of Service with respect to the Apple-Enabled Software, and that, upon your acceptance of the terms and conditions of these Terms of Service, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms of Service against you with respect to the Apple-Enabled Software as a third-party beneficiary thereof.

**Google-Sourced Software:** The following applies to any Mobile App you download from the Google Play Store (“Google-Sourced Software”): (a) you acknowledge that these Terms of Service are between you and Nessle only, and not with Google, Inc. (“Google”); (b) your use of Google-Sourced Software must comply with Google’s then-current Google Play Terms of Service; (c) Google is only a provider of Google Play where you obtained the Google-Sourced Software; (d) Nessle, and not Google, is solely responsible for Nessle’s Google-Sourced Software; (e) Google has no obligation or liability to you with respect to Google-Sourced Software or these Terms of Service; and (f) you acknowledge and agree that Google is a third-party beneficiary to these Terms of Service as it relates to Nessle’s Google-Sourced Software.]

**Open Source Software:** The Software may contain or be provided together with open source software. Each item of open source software is subject to its own license terms, which can be found at: <https://www.nessle.com/open-source-attribution>. If required by any license for particular open source software, Nessle makes such open source software, and Nessle’s modifications to that open source software (if any), available by written request to hello@nessle.com. Copyrights to the open source software are held by the respective copyright holders indicated therein.

### **Intellectual Property Rights**

**Nessle Content:** You acknowledge and agree that the Service may contain content or features (“Nessle Content”) that are protected by copyright, patent, trademark, trade secret, or other proprietary rights and laws. Except as expressly authorized by Nessle, you agree not to modify, copy, frame, scrape, rent, lease, loan, sell, distribute, or create derivative works based on the Service or the Nessle Content, in whole or in part, except that the foregoing does not apply to your own Supplier Content (as defined below) that you upload to or make available through the Service in accordance with these Terms of Service. Any use of the Service or the Nessle Content other than as specifically authorized herein is strictly prohibited.

**Trademarks:** The Nessle name and logos are trademarks and service marks of Nessle (collectively the “Nessle Trademarks”). Other company, product, and service names and logos used and



displayed via the Service may be trademarks or service marks of their respective owners who may or may not endorse or be affiliated with or connected to Nessel. Nothing in these Terms of Service or the Service should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any of Nessel Trademarks displayed on the Service, without our prior written permission in each instance. All goodwill generated from the use of Nessel Trademarks will inure to our exclusive benefit.

**Third-Party Material:** Under no circumstances will Nessel be liable in any way for any content or materials of any third parties (including other users or Suppliers), including for any errors or omissions in any content, or for any loss or damage of any kind incurred as a result of the use of any such content. You acknowledge that Nessel does not pre-screen content, but that Nessel and its designees will have the right (but not the obligation) in their sole discretion to refuse or remove any content that is available via the Service. Without limiting the foregoing, Nessel and its designees will have the right to remove any content that violates these Terms of Service or is deemed by Nessel, in its sole discretion, to be otherwise objectionable. You agree that you must evaluate, and bear all risks associated with, the use of any content, including any reliance on the accuracy, completeness, or usefulness of such content.

**Supplier Content:** You represent and warrant that you own all right, title and interest in and to such Supplier Content, including all copyrights and rights of publicity contained therein. You hereby grant Nessel and its affiliates, successors and assigns a non-exclusive, worldwide, royalty-free, fully paid-up, transferable, sublicensable (directly and indirectly through multiple tiers), perpetual, and irrevocable license to copy, display, upload, perform, distribute, store, modify, and otherwise use any Supplier Content you share on the Service. You assume all risk associated with your Supplier Content and the transmission of your Supplier Content, and you have sole responsibility for the accuracy, quality, legality, and appropriateness of your Supplier Content.

You hereby authorize Nessel and its third-party service providers to derive statistical and usage data relating to your use of the Service ("Usage Data"). We may use Usage Data for any purpose in accordance with applicable law and our Privacy Policy.

Any questions, comments, suggestions, ideas, feedback, reviews, or other information about the Service ("Submissions"), provided by you to Nessel are non-confidential and Nessel will be entitled to the unrestricted use and dissemination of these Submissions for any purpose, commercial or otherwise, without acknowledgment, attribution, or compensation to you.

You acknowledge and agree that Nessel may preserve Supplier Content and may also disclose Supplier Content if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: (a) comply with legal process, applicable laws, or government requests; (b) enforce these Terms of Service; (c) respond to claims that any content violates the rights of third parties; or (d) protect the rights, property, or personal safety of Nessel, its users, or the public. You understand that the technical processing and transmission of the Service, including your Supplier Content, may involve (i) transmissions over various networks; and (ii) changes to conform and adapt to technical requirements of connecting networks or devices.

**Copyright Complaints:** Nessel respects the intellectual property of others, and we ask our users to do the same. If you believe that your work has been copied in a way that constitutes copyright infringement, or that your intellectual property rights have been otherwise violated, you should notify Nessel of your infringement claim in accordance with the procedure set forth below.

Nessel will process and investigate notices of alleged infringement and will take appropriate actions under the Digital Millennium Copyright Act ("DMCA") and other applicable intellectual property laws with respect to any alleged or actual infringement. A notification of claimed copyright infringement should be emailed to Nessel's Copyright Agent at [carly@nessle.com](mailto:carly@nessle.com) (Subject line: "DMCA Takedown Request"). You may also contact the Copyright Agent by mail at:

**1717 E Cary St.  
Richmond, VA 23223**

To be effective, the notification must be in writing and contain the following information:

- a physical or electronic signature of a person authorized to act on behalf of the owner of the copyright or other intellectual property interest that is allegedly infringed;
- identification of the copyrighted work or other intellectual property that you claim has been infringed, or, if multiple copyrighted works or other intellectual property are covered by a single notification, a representative list of such works or other intellectual property;
- identification of the content that is claimed to be infringing or to be the subject of infringing activity, and where the content that you claim is infringing is located on the Service, with enough detail that we may find it on the Service;
- your address, telephone number, and email address;
- a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright or intellectual property owner, its agent, or the law; and
- a statement by you that the information in your notice is accurate and, under penalty of perjury, that you are the copyright or intellectual property owner or are authorized to act on the behalf of the owner of the copyright or intellectual property that is allegedly infringed.

**Counter-Notice:** If you believe that your Supplier Content that was removed (or to which access was disabled) is not infringing, or that you have the authorization from the copyright owner, the copyright owner's agent, or pursuant to the law, to upload and use the content in your Supplier Content, you may send a written counter-notice containing the following information to the Copyright Agent:

- your physical or electronic signature;
- identification of the content that has been removed or to which access has been disabled and the location at which the content appeared before it was removed or disabled;
- a statement by you, made under penalty of perjury, that you have a good faith belief that the content was removed or disabled as a result of mistake or a misidentification of the content to be removed or disabled; and
- your name, address, telephone number, and email address, a statement that you consent to the jurisdiction of the federal court located within the Commonwealth of Virginia and a statement that you will accept service of process from the person who provided notification of the alleged infringement.

If a counter-notice is received by the Copyright Agent, Nettle will send a copy of the counter-notice to the original complaining party informing them that Nettle may replace the removed content or cease disabling it within ten (10) business days. Unless the owner of the applicable copyrighted work or other intellectual property files an action seeking a court order against Nettle or the user, the removed content may be replaced, or access to it restored, within ten (10) to fourteen (14) business days or more after receipt of the counter-notice, at our sole discretion.

**Repeat Infringer Policy:** In accordance with the DMCA and other applicable law, Nettle has adopted a policy of terminating, in appropriate circumstances and at Nettle's sole discretion, the accounts of users who are deemed to be repeat infringers. Nettle may also at its sole discretion limit access to the Service and/or terminate the accounts of any users who infringe any intellectual property rights of others, whether or not there is any repeat infringement.

### **Supplier Representations and Warranties**

You represent and warrant that: (a) your performance of your service does not and will not violate or conflict with or result in a breach of any terms, conditions, duties or obligations you have to any third party or any other rights of any third party; (b) all Supplier Content, including any and all information you provide to Nessle regarding your eligibility, is complete and accurate and not misleading; (c) you will comply with all applicable laws; (d) you will provide your services to Users in a professional and workmanlike manner; and (e) you have all required licensures, certifications and insurance to offer your services to Users.

### **Indemnification**

You agree to defend, indemnify, and hold harmless Nessle, its affiliates, and its and their respective officers, employees, directors, service providers, licensors, and agents (collectively, the “Nessle Parties”) from any and all losses, damages, expenses, including reasonable attorneys’ fees, rights, claims, actions of any kind, and injury (including death) arising out of or relating to any Users, your use of the Service, any Supplier Content (including any information and services you provide to Users, whether or not through the Service), your connection to the Service, your violation of these Terms of Service, or your violation of any rights of another. Nessle will provide notice to you of any such claim, suit, or proceeding. Nessle reserves the right to assume the exclusive defense and control of any matter which is subject to indemnification under this section, and you agree to cooperate with any reasonable requests assisting Nessle’s defense of such matter. You may not settle or compromise any claim against the Nessle Parties without Nessle’s written consent.

### **Disclaimer of Warranties**

YOUR USE OF THE SERVICE ARE AT YOUR OWN SOLE RISK. THE SERVICE, NESSLE CONTENT, AND NESSLE MATERIALS ARE PROVIDED ON AN “AS-IS” BASIS, WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE NESSLE PARTIES HEREBY DISCLAIM ALL WARRANTIES, REPRESENTATIONS, OR CONDITIONS, EXPRESS OR IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT. THE NESSLE PARTIES MAKE NO WARRANTY THAT (A) THE SERVICE MEETS YOUR REQUIREMENTS AND HAVE THE QUALITY THAT YOU NEED, (B) THE SERVICE WILL BE UNINTERRUPTED, TIMELY SECURE, FREE OF MALICIOUS SOFTWARE, OR ERROR-FREE, (C) THE NESSLE CONTENT OR THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE, (D) ANY ERRORS IN THE SERVICE WILL BE CORRECTED, OR (E) THE QUALITY OF THE SERVICES OR INFORMATION OR OTHER MATERIALS OBTAINED BY THROUGH THE SERVICE WILL MEET YOUR EXPECTATIONS. THE NESSLE PARTIES MAKES NO WARRANTY THAT THE INFORMATION PROVIDED BY ANY SUPPLIER, INCLUDING BUT NOT LIMITED TO ANY MEDICAL OR HEALTH INFORMATION, IS ACCURATE, CURRENT, COMPLETE, TIMELY, OR APPLICABLE TO ANY SUPPLIER’S PARTICULAR NEEDS. THE NESSLE PARTIES DO NOT WARRANT OR GUARANTEE THE SAFETY, EFFECTIVENESS, OR OUTCOME OF THE USE OF THE SERVICE, OR ANY CONDUCT OR ACTIONS OR INACTIONS OF USERS OR SUPPLIERS.

THE NESSLE PARTIES ARE NOT RESPONSIBLE FOR ANY BODILY INJURY, PROPERTY DAMAGE, OR ANY OTHER DAMAGES CAUSED BY A SUPPLIER OR ITS REPRESENTATIVES, FAMILY MEMBER OF SUCH SUPPLIER OR ITS REPRESENTATIVES, OR ANY OTHER THIRD PARTY WHETHER UNDER CONTRACT, TORT, NEGLIGENCE, STATUTE, OR OTHERWISE.

### **Limitation of Liability**

UNDER NO CIRCUMSTANCES WHATSOEVER WILL THE NESSLE PARTIES OR ITS LICENSORS BE LIABLE TO YOU OR ANY THIRD PARTY, FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES; WRONGFUL DEATH, BODILY INJURY, OR PROPERTY DAMAGE; LOST PROFITS; LOST DATA; LOST SAVINGS; OR THE COST OF PROCURING SUBSTITUTE SERVICES, EVEN IF THE NESSLE PARTIES OR ONE OF ITS LICENSORS HAS BEEN ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES. IN NO EVENT WILL THE NESSLE PARTIES' LIABILITY FOR ANY AND ALL CLAIMS, DEMANDS, SUITS, LOSSES, DAMAGES, LIABILITIES, COSTS, ACTIONS, JUDGMENTS, AND EXPENSES (INCLUDING REASONABLE ATTORNEY'S FEES) (ALL OF WHICH ARE REFERRED TO THESE TERMS OF SERVICE AS A "CLAIM" OR WHEN PLURAL AS "CLAIMS") ARISING OUT OF OR RELATING TO, IN WHOLE OR IN PART, THESE TERMS OF SERVICE, THE SERVICE, OR THE NESSLE MATERIALS, WHETHER UNDER CONTRACT, TORT, NEGLIGENCE, STATUTE, OR OTHERWISE, EXCEED THE GREATER OF (A) \$100 OR (B) THE AMOUNT YOU HAVE PAID TO NESSLE IN THE PRECEDING 12-MONTH PERIOD. THE FOREGOING LIMITATIONS AND EXCLUSIONS OF DAMAGES WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

### **Term and Termination**

**Term:** These Terms of Service remain in full effect until terminated.

**Termination:** Nessle may terminate these Terms of Service upon notifying you at any time, for any or no reason, with or without prior notice or explanation, and without liability. Nessle, in its sole discretion, may suspend or terminate your account (or any part thereof) or use of the Service and remove and discard any content within the Service, for any reason, including for lack of use or if Nessle believes that you have violated or acted inconsistently with the letter or spirit of these Terms of Service. Any suspected fraudulent, abusive, or illegal activity that may be grounds for termination of your use of the Service, may be referred to appropriate law enforcement authorities. Nessle may also in its sole discretion and at any time discontinue providing the Service, or any part thereof, with or without notice. You agree that any termination of your access to the Service under any provision of these Terms of Service may be effected without prior notice, and acknowledge and agree that Nessle may immediately deactivate or delete your account and all related information and files in your account and/or bar any further access to such files or the Service. Further, you agree that Nessle will not be liable to you or any third party for any termination of your access to the Service.

**Effect of Termination:** After termination of these Terms of Service, you will stop using the Service and all rights granted herein will be terminated. This Subsection and Sections that by their nature should survive such expiration or termination will survive, including the terms and conditions relating to important reminders of the service, payments, intellectual property rights, ownership; restrictions, disclaimer of warranties, indemnification, limitations of liability, termination, dispute resolution by binding arbitration, user and supplier disputes, and the miscellaneous provisions.

### **Dispute Resolution by Binding Arbitration**

**PLEASE READ THIS SECTION CAREFULLY AS IT AFFECTS YOUR RIGHTS.**

#### **Agreement to Arbitrate**

This Dispute Resolution by Binding Arbitration section is referred to in these Terms of Service as the "Arbitration Agreement." You agree that any and all disputes or claims that have arisen or may arise between you and Nessle, whether arising out of or relating to these Terms of Service (including any alleged breach thereof), the Service, any advertising, or any aspect of the relationship or transactions

between us, will be resolved exclusively through final and binding arbitration, rather than a court, in accordance with the terms of this Arbitration Agreement, except that you may assert individual claims in small claims court, if your claims qualify. Further, this Arbitration Agreement does not preclude you from bringing issues to the attention of federal, state, or local agencies, and such agencies can, if the law allows, seek relief against us on your behalf. You agree that, by entering into these Terms of Service, you and Nessle are each waiving the right to a trial by jury or to participate in a class action. Your rights will be determined by a neutral arbitrator, not a judge or jury. The Federal Arbitration Act governs the interpretation and enforcement of this Arbitration Agreement.

#### **Prohibition of Class and Representative Actions and Non-Individualized Relief**

***YOU AND NESSLE AGREE THAT EACH OF US MAY BRING CLAIMS AGAINST THE OTHER ONLY ON AN INDIVIDUAL BASIS AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE ACTION OR PROCEEDING. UNLESS BOTH YOU AND NESSLE AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE OR JOIN MORE THAN ONE PERSON'S OR PARTY'S CLAIMS AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A CONSOLIDATED, REPRESENTATIVE, OR CLASS PROCEEDING. ALSO, THE ARBITRATOR MAY AWARD RELIEF (INCLUDING MONETARY, INJUNCTIVE, AND DECLARATORY RELIEF) ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF NECESSITATED BY THAT PARTY'S INDIVIDUAL CLAIM(S), EXCEPT THAT YOU MAY PURSUE A CLAIM FOR AND THE ARBITRATOR MAY AWARD PUBLIC INJUNCTIVE RELIEF UNDER APPLICABLE LAW TO THE EXTENT REQUIRED FOR THE ENFORCEABILITY OF THIS PROVISION.***

#### **Pre-Arbitration Dispute Resolution**

Nessle is always interested in resolving disputes amicably and efficiently, and most customer concerns can be resolved quickly and to the customer's satisfaction by emailing customer support at support@nessle.com. If such efforts prove unsuccessful, a party who intends to seek arbitration must first send to the other, by certified mail, a written Notice of Dispute ("Notice"). The Notice to Nessle should be sent to 1717 E. Cary St., Richmond, VA 23223 ("Notice Address"). The Notice must (i) describe the nature and basis of the claim or dispute and (ii) set forth the specific relief sought. If Nessle and you do not resolve the claim within sixty (60) calendar days after the Notice is received, you or Nessle may commence an arbitration proceeding. During the arbitration, the amount of any settlement offer made by Nessle or you will not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which you or Nessle is entitled.

#### **Arbitration Procedures**

Arbitration will be conducted by a neutral arbitrator in accordance with the American Arbitration Association's ("AAA") rules and procedures, including the AAA's Consumer Arbitration Rules (collectively, the "AAA Rules"), as modified by this Arbitration Agreement. For information on the AAA, please visit its website, <https://www.adr.org>. Information about the AAA Rules and fees for consumer disputes can be found at the AAA's consumer arbitration page, <https://www.adr.org/consumer>. If there is any inconsistency between any term of the AAA Rules and any term of this Arbitration Agreement, the applicable terms of this Arbitration Agreement will control unless the arbitrator determines that the application of the inconsistent Arbitration Agreement terms would not result in a fundamentally fair arbitration. The arbitrator must also follow the provisions of these Terms of Service as a court would. All issues are for the arbitrator to decide, including issues relating to the scope, enforceability, and arbitrability of this Arbitration Agreement. Although arbitration proceedings are usually simpler and more streamlined than trials and other judicial proceedings, the arbitrator can award the same damages and relief on an individual basis that a court can award to an individual under these Terms of Service and



applicable law. Decisions by the arbitrator are enforceable in court and may be overturned by a court only for very limited reasons.

Unless Nessle and you agree otherwise, any arbitration hearings will take place in a reasonably convenient location for both parties with due consideration of their ability to travel and other pertinent circumstances. If the parties are unable to agree on a location, the determination will be made by AAA. If your claim is for \$10,000 or less, Nessle agrees that you may choose whether the arbitration will be conducted solely on the basis of documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing as established by the AAA Rules. If your claim exceeds \$10,000, the right to a hearing will be determined by the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator will issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the award is based.

### **Costs of Arbitration**

Payment of all filing, administration, and arbitrator fees (collectively, the “Arbitration Fees”) will be governed by the AAA Rules, unless otherwise provided in this Arbitration Agreement. To the extent any Arbitration Fees are not specifically allocated to either Nessle or you under the AAA Rules, Nessle and you shall split them equally; provided that if you are able to demonstrate to the arbitrator that you are economically unable to pay your portion of such Arbitration Fees or if the arbitrator otherwise determines for any reason that you should not be required to pay your portion of any Arbitration Fees, Nessle will pay your portion of such fees. In addition, if you demonstrate to the arbitrator that the costs of arbitration will be prohibitive as compared to the costs of litigation, Nessle will pay as much of the Arbitration Fees as the arbitrator deems necessary to prevent the arbitration from being cost-prohibitive. Any payment of attorneys’ fees will be governed by the AAA Rules.

### **Confidentiality**

All aspects of the arbitration proceeding, and any ruling, decision, or award by the arbitrator, will be strictly confidential for the benefit of all parties.

### **Severability**

If a court or the arbitrator decides that any term or provision of this Arbitration Agreement (other than the subsection (b) above titled “Prohibition of Class and Representative Actions and Non-Individualized Relief” above) is invalid or unenforceable, the parties agree to replace such term or provision with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Arbitration Agreement will be enforceable as so modified. If a court or the arbitrator decides that any of the provisions of subsection (b) above titled “Prohibition of Class and Representative Actions and Non-Individualized Relief” are invalid or unenforceable, then the entirety of this Arbitration Agreement will be null and void, unless such provisions are deemed to be invalid or unenforceable solely with respect to claims for public injunctive relief. The remainder of these Terms of Service will continue to apply.

### **Future Changes to Arbitration Agreement**

Notwithstanding any provision in these Terms of Service to the contrary, Nessle agrees that if it makes any future change to this Arbitration Agreement (other than a change to the Notice Address) while you are a user of the Service, you may reject any such change by sending Nessle written notice within thirty (30) calendar days of the change to the Notice Address provided above. By rejecting any future change, you are agreeing that you will arbitrate any dispute between us in accordance with the language of this Arbitration Agreement as of the date you first accepted these Terms of Service (or accepted any subsequent changes to these Terms of Service).

### **User and Supplier Disputes**

You agree that you are solely responsible for your interactions with any User or Supplier in connection with the Service, and Nessle will have no liability or responsibility with respect thereto. Nessle reserves the right, but has no obligation, to become involved in any way with disputes between you and any other User or Supplier of the Service.

### **Miscellaneous**

These Terms of Service will be governed by the internal laws of the Commonwealth of Virginia without giving effect to its conflicts of laws principles. With respect to any disputes or claims not subject to arbitration, as set forth above, you and Nessle submit to the personal and exclusive jurisdiction of the state and federal courts located within the Commonwealth of Virginia. These Terms of Service constitute the entire agreement and understanding between the parties and supersede all prior agreements, whether oral or written, between the parties with respect to the subject matter of these Terms of Service. The failure of Nessle to exercise or enforce any right or provision of these Terms of Service will not constitute a waiver of such right or provision. The unenforceability of any provision or provisions of these Terms of Service will not render unenforceable or impair its remainder. If any provision of these Terms of Service are deemed invalid or unenforceable in whole or in part, these Terms of Service will be deemed amended to delete or modify, as necessary, the invalid or unenforceable provision to render it valid, enforceable, and, insofar as possible, consistent with the original intent of the parties. The headings in these Terms of Service are solely for the convenience of reference and will not be given any effect in the construction or interpretation of these Terms of Service. Nessle may assign these Terms of Service any successor in interest. You may not assign these Terms of Service or delegate the duties under these Terms of Service without Nessle's advance written consent. These Terms of Service will be binding upon, and inure to the benefit of Nessle, and its successors and assigns, and on you, your permitted successors and assigns, and (if you are a sole proprietor) on your heirs and representatives. Notices to you may be made via either email or regular mail. The Service may also provide notices to you of changes to these Terms of Service or other matters by displaying notices or links to notices generally on the Service. Nessle will not be in default hereunder by reason of any failure or delay in the performance of its obligations where such failure or delay is due to civil disturbances, riot, epidemic, hostilities, war, terrorist attack, embargo, natural disaster, acts of God, flood, fire, sabotage, fluctuations or unavailability of electrical power, network access or equipment, or any other circumstances or causes beyond Nessle's reasonable control.